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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/637,124	08/08/2003	Charles Binzel	CS21165RL	3836
20280	7590	11/09/2009		
MOTOROLA INC 600 NORTH US HIGHWAY 45 W4 - 39Q LIBERTYVILLE, IL 60048-5343			EXAMINER VO, NGUYEN THANH	
			ART UNIT 2618	PAPER NUMBER
			NOTIFICATION DATE 11/09/2009	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

DOCKETING.LIBERTYVILLE@MOTOROLA.COM  
ADB035@Motorola.com

### Office Action Summary

**Application No.**

10/637,124

**Applicant(s)**

BINZEL ET AL.

**Examiner**

NGUYEN VO

**Art Unit**

2618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 July 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 3-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1 and 3-18 is/are allowed.
- 6) ☒ Claim(s) 19-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-083)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).
3. Claims 19-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jokinen (5,570,369) in view of Mullins (5,404,374).

As to claim 19, Jokinen discloses a mobile wireless communication device capable of receiving an incoming message transmitted in a series of portions over successive intervals, comprising a receiver (see the receiving path in figure 1); a controller 19 coupled to the receiver, the controller 19 configured to cause the receiver to receive portions of the incoming message in at least two the successive intervals (see "receiving only 2 of the 4 time slots" at column 6 lines 28-31"), wherein the portions

of the incoming message received include convolutionally encoded data (see column 4 lines 52-59; column 5 lines 52-53; column 6 lines 18-21); the controller configured to decode the encoded data of the portions of the incoming message received (see the decoder 15 in figure 2). In Jokinen, the controller 19 causes the receiver to receive only 2 of the four time slots (see "receiving only 2 of the 4 time slots" at column 6 lines 28-31). Jokinen, however, fails to expressly disclose that a first time slot is not received by the receiver as recited in the claim. Those skilled in the art would have recognized that as long as a message is successfully reconstructed, the above difference would not involve any inventive concept because it merely depend on which time slot one would like his receiver to not receive a message portion. Mullins discloses that a message can still be successfully reconstructed if a first burst of the message is not received by a receiver (see column 8 lines 25-27, lines 48-54). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide the above teaching of Mullins to Jokinen such that the controller causes the receiver to not receive a portion of the incoming message in a first of the successive intervals, so that the receiver does not always have to be turned on during the first time slot.

As to claim 20, Jokinen as modified by Mullins discloses the claimed limitation (see Jokinen, column 6 lines 11-13 which discloses receiving a third time slot; see also "receiving only 2 of the 4 time slots" at column 6 lines 28-31", and "the second and third time slot portions of four time slot messages" at column 6 lines 54-57; see also Mullins, column 8 lines 25-27, lines 48-54).

As to claim 21, Jokinen as modified by Mullins discloses the claimed limitation (see Jokinen, column 6 lines 24-27 which discloses receiving a fourth time slot; see also "receiving only 2 of the 4 time slots" at column 6 lines 28-31"; see also Mullins, column 8 lines 25-27, lines 48-54).

As to claims 22-23, see Jokinen, column 6 lines 3-27.

***Allowable Subject Matter***

4. Claims 1, 3-18 are allowed.

***Response to Arguments***

5. Applicant's arguments filed 07/16/2009 have been fully considered but they are not persuasive.

Applicant argues that the combination of Jokinen and Mullins fails to disclose the newly-added limitation "the portions of the incoming message received include convolutionally encoded data". The examiner, however, disagrees. Jokinen does disclose the above newly-added limitation (see column 4 lines 52-59; column 5 lines 52-53; column 6 lines 18-21).

***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to NGUYEN VO whose telephone number is (571)272-7901. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Urban can be reached on (571) 272-7899. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Nguyen Vo/  
Primary Examiner, Art Unit 2618